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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,190	10/15/2003	Gregory B. Hale	58085-010204	7573

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EXAMINER
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HARTMAN JR, RONALD D

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/687,190

Applicant(s)

HALE ET AL.

Examiner

Ronald D Hartman Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-9 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. The applicant has stated that the "applicant disagrees with the Examiner's characterization of parent disclosure of U.S. Patent No. 6,173,209", and that "the applicant does not believe the claims are limited to cellular telephones". The examiner is puzzled statement by this since clearly claim 1 is directed towards cellular telephone usage, as it is explicitly claimed. Therefore since neither 09/617,721 nor 09/372,405 which is now U.S. Patent No. 6,173,209, appears to have a disclosure that adequately discusses the use of cellular telephone technology whatsoever, the priority date for this subject matter with regards to at least claims 1-4 is the date of filing for this subject matter, that being 10/15/2003.

Furthermore, it is noted that newly submitted claims 5-9 are features not supported by the previous disclosures as well, since evacuations of disaster areas was not a disclosed implementation of the system and methods described by any of the previously filed applications. Therefore, newly filed claims 5-9 do not receive the benefit of any earlier filed application, and therefore the effective priority date with respect to rejections applied using prior art is the applications filing date, that being 10/15/2003.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3 and 5-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Dombroski et al., U.S. Patent Application No. U.S. 2003/0023463 A1.

As per claim 1, Dombroski et al., teaches a method of managing the movement of people located in different places at a first location comprising:

- wirelessly communicating with the people using a cellular telephone; and
- permitting at least one person to enter a departure request, using the cellular telephone, for allocation of a time for leaving the first location, wherein the departure request is transmitted and inputted to a central computer which regulates the number of persons at the first location relative to a second location and wherein a response is transmitted back to the person, from the central computer, and which provides a plurality of available departure times so as to allow the person the ability to select one of the available departure times for departing from the first location to the second location (e.g. all of the these features or limitations are interpreted to correspond to a airline ticketing system which allows the movement of persons from one location to another, wherein the ticketing system, through implementation of a central computer, allows a user to schedule a desired departure time, using a cellular telephone, from a first location to second location; this system is clearly described by Dombroski et al., specifically [0044] for the cellular telephone communication feature, specifically [0003] for the departure request and response transmitted back to the user for selecting a departure time from a first location and specifically [0009] and [0014] for a computer which provides travel, in other words flight, availability information through utilization of a GDS).

Furthermore, as per claim 1, different places at a first location is a feature that the disclosed system of Dombroski et al. inherently possesses the ability to perform since clearly a web-based ticketing system would be utilized by persons located on different continents (the different continents corresponding to the first and second

locations) and any city of each continent would adequately represent or anticipate the claimed "different places" of the first and second remote locations.

As per claims 2-3, the use of the keys located on a cellular telephone is a function and or capability that the disclosed system of Dombroski et al. inherently possesses the ability to achieve since Dombroski et al. clearly anticipates the use of keyboards for inputting information into a computer (e.g. See [0040]), and this functionality would be present for use in a cellular telephone as well since the telephone is comprised of a keyboard, per se, in the form of a keypad.

As per claims 5-6, the rejection of claim 1 is equally applied herein. Furthermore, "evacuation" may be interpreted to be the equivalent of "leaving" or "vacating" and does not necessarily imply that a serious condition has occurred, but merely conveys that an "exiting" or "departure" has or will be occurring, and therefore "evacuation" may be interpreted to be the same as departing or utilizing a departure time, features already discussed above with respect to at least claim 1.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dombroski et al., as applied to claim 1 above, in further view of Official Notice.

As per claim 4, Official Notice is taken with respect to a feature wherein a person who does not reserve a departure time for a flight may still depart from a location using

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a first in first out (FIFO) basis as it represents the standard means by which tickets are issued, that is, on a first come first serve basis. Obviously therefore, if a person does not reserve a departure in advance, he or she will only have tickets available to them on a first come first serve basis, that is, if there are any tickets still available at the time of the persons request. This known methodology of providing tickets to individuals who do not possess a reservation is well known in the art of airline ticketing and represents a known feature that would obviously benefit the system disclosed by Dombroski et al. for the purpose of providing an orderly method for scheduling a flight so that the airlines flight capacities may be optimized and overbooking and under booking may be avoided, and this would have been obvious to one of ordinary skill in the art at the time the invention was made.

#### ***Allowable Subject Matter***

6. Claims 7-9 are allowed.

As per claims 7-9, specifically independent claims 7 and 8, the prior art of record fails to teach a method for managing the evacuation of people from places of a first location to places of a second location, wherein the people may select a departure time from the first location, so as to allow their evacuation to the second location, in combination with the other claimed features and or limitations as claimed by the claimed invention.

#### ***Response to Arguments***

7. The applicant has argued that Waytena in view of Croughwell does not effectively teach departure times or the use of a computer for regulating the number of persons in the first location as related to the second location.

In response, the Examiner concurs with the notion that an arrival time, taught by the applied prior art, is not the same as a "departure time", and upon further search and consideration, another reference was located and has been applied herein which shows the use of a computer and departure times relative to leaving a first location for a second location.

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Therefore, since the arguments presented were persuasive, and the examiner has applied another rejection using new grounds of rejection, this rejection is being made Non-Final.

**Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D Hartman Jr. whose telephone number is (571) 272 - 3684. The examiner can normally be reached on Mon. - Fri., 11:30 am - 8:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached at (571) 272 - 3687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

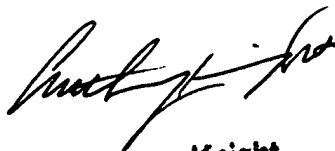
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald D Hartman Jr.

Patent Examiner

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x ROK



**Anthony Knight**  
Supervisory Patent Examiner  
Group 3600